

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

March 23, 2016

The Honorable Andy Slavitt  
Acting Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Acting Administrator Slavitt:

We encourage you to reconsider the Center for Medicare and Medicaid Services' (CMS) proposed policy changes to Medicare Advantage (MA) Employer Group Waiver Plans (EGWPs) as outlined in CMS's Advanced Notice and Call Letter issued February 19, 2016.<sup>1</sup> We are concerned that the proposed changes could result in disruptive and potentially harmful payment cuts to MA retiree health plans.

Today, more than three million seniors nationwide rely on MA retiree plans offered through labor unions, private employers, and state and local governments. Due to some of the particular characteristics of EGWPs, we are concerned that CMS's proposal could unintentionally undermine the high quality, coordinated health care that retirees in these plans enjoy.

With one in five MA enrollees enjoying coverage through an EGWP, millions of retirees in MA EGWP coverage like the plan they have and want to keep it. Moving forward with the proposed policy changes within the timeframe CMS envisions could result in more seniors losing their current coverage and being thrust into an unmanaged fee-for-service system. If such changes were implemented, retirees could experience fewer health care choices and unexpected additional out-of-pocket costs.

In the interest of protecting retirees and avoiding seniors losing coverage that coordinates their care, we encourage CMS to scrap the proposed changes to MA EGWPs when finalizing the CY 2017 MA policies. We also note that, due to the short time frame between when the proposed policy changes would be effective and when they would have to be implemented by CMS and plans, the proposed policy changes could seriously inhibit employers' ability to deliver on their commitment to offer retiree coverage through MA EGWPs in 2017 to retirees.

We encourage CMS to be more deliberative and transparent with Congress, MA plans, and other stakeholders with respect to the proposed changes to the MA EGWP program. Certainly, in some

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<sup>1</sup> Advance Notice of Methodological Changes for Calendar Year (CY) 2017 for Medicare Advantage (MA) Capitation Rates, Part C and Part D Payment Policies and 2017 Call Letter, issued February 19, 2016. Available online: <https://www.cms.gov/Medicare/Health-Plans/MedicareAdvtgSpecRateStats/Downloads/Advance2017.pdf>

cases, CMS has responsibly shared data and analysis in a public manner over a period of time, which has allowed Congress, MA plans, and other stakeholders to have a better understanding of the agency's thinking with respect to other policy changes.

Unfortunately, however, when it comes to proposed EGWP policies, CMS has yet to be as iterative or clear as is warranted. Therefore, in the interest of CMS being accountable and transparent to Congress and impacted retirees, we respectfully request CMS provide a fuller explanation regarding several critical operational issues outlined below:

1. In many respects, the nature of the EGWP model does not seem to fit under the current bid calendar for normal county or regional plans. Why does CMS believe changes are warranted, given the unique nature of the EGWP model?
2. Three days after the official comment period closed March 4, 2016, on March 7, 2016, CMS released a memo to plans offering a mere two sentences of explanation with respect to the agency's estimate of the impact of the proposed EGWP policy change. That memo, which is not publicly available on CMS's website, read:

“We estimate that the average 2017 impact for EGWPs of the proposed Part C EGWP payment change is -2.5%. We estimate that average 2017 program-wide impact of the proposed Part C EGWP payment change is -0.4%.”

While it would have been preferable for CMS to quantify this net cut to the MA program before the Call Letter, it is even more troubling that CMS failed to release its estimate of the impact of the proposed policy change during the official comment period.
  - a. Was CMS's estimate of the proposed EGWP policy completed before the Call Letter on February 19, 2016?
    - a. If the estimate was completed and available, why did CMS not make it available during the official comment period?
    - b. If the estimate was *not* completed and available before the Call Letter, please explain why CMS is proposing policy changes it has not fully modeled.
  - b. Has CMS modeled the impact of proposed EGWP policy changes on retirees, specifically examining what number of retirees might lose their current coverage or be expected to transition into fee-for-service?
    - a. If CMS has modeled the impact of the proposed policy changes on current enrollees, please provide such estimates or analysis.
    - b. If CMS has *not* modeled the impact of the proposed policy changes on current enrollees, please explain why CMS is proposing policy changes it had not fully modeled.
3. Please explain CMS's analysis with respect to the possible situations in which risk adjustment might be affected under the proposed policy changes if a retiree from an employer in one state moves and retires in another. If CMS's goal is to create a greater degree of parity between MA EGWP bids and other MA plan bids, such fundamental and basic questions are critical to address prior to implementation of any changes.

4. Given when plan bids are due, please explain how CMS envisions the proposed EGWP policy changes relate to seniors' retirement transitions that would occur this year and next year.
5. Please explain CMS's analysis regarding how proposed EGWP policy changes would impact multi-year contracts with employers.

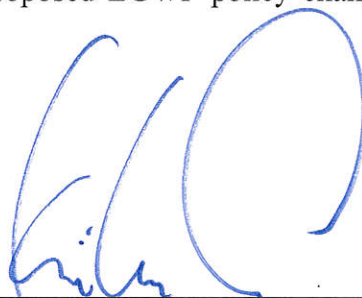
We know you appreciate that CMS has a responsibility -- to both Congress and the more than 3 million retirees with coverage through MA EGWPs today -- to be thoughtful and accountable in proposing policy changes. In the future, we encourage further CMS proposals related to MA EGWPs be made in a manner that would give plans and employers enough time to adjust to proposed policies.

For CY 2017, in light of the scope of the proposed EGWP policy changes and the timeframe before such policies would be finalized, we again respectfully request you scrap the MA EGWP policies included in the Call Letter. We reiterate our recommendation that CMS more robustly engage with Congress, MA plans, and other stakeholders in a more iterative and transparent process to satisfactorily resolve serious concerns regarding how the proposed EGWP policy changes could disrupt retirees' health coverage choices.

Sincerely,



PAUL D. RYAN  
Speaker  
U.S. House of Representatives



KEVIN MCCARTHY  
Majority Leader  
U.S. House of Representatives



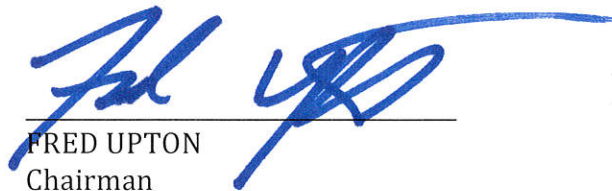
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